

SHB 2939 - S COMM AMD

By Committee on Transportation

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.52.130 and 2009 c 276 s 1 are each amended to read as follows:

~~((1) A certified abstract of the driving record shall be furnished only to:~~

~~(a) The individual named in the abstract;~~

~~(b) An employer or prospective employer or an agent acting on behalf of an employer or prospective employer, or a volunteer organization for which the named individual has submitted an application for a position that could require the transportation of children under eighteen years of age, adults over sixty five years of age, or persons with mental or physical disabilities;~~

~~(c) An employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs;~~

~~(d) The insurance carrier that has insurance in effect covering the employer or a prospective employer;~~

~~(e) The insurance carrier that has motor vehicle or life insurance in effect covering the named individual;~~

~~(f) The insurance carrier to which the named individual has applied;~~

~~(g) An alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment;~~

~~(h) City and county prosecuting attorneys;~~

~~(i) State colleges, universities, or agencies for employment and risk management purposes; or units of local government authorized to self-insure under RCW 48.62.031; or~~

1 ~~(j) An employer or prospective employer or volunteer organization,~~
2 ~~or an agent acting on behalf of an employer or prospective employer or~~
3 ~~volunteer organization, for employment purposes related to driving by~~
4 ~~an individual as a condition of that individual's employment or~~
5 ~~otherwise at the direction of the employer or organization.~~

6 ~~(2) Nothing in this section shall be interpreted to prevent a court~~
7 ~~from providing a copy of the driver's abstract to the individual named~~
8 ~~in the abstract, provided that the named individual has a pending case~~
9 ~~in that court for a suspended license violation or an open infraction~~
10 ~~or criminal case in that court that has resulted in the suspension of~~
11 ~~the individual's driver's license. A pending case includes criminal~~
12 ~~cases that have not reached a disposition by plea, stipulation, trial,~~
13 ~~or amended charge. An open infraction or criminal case includes cases~~
14 ~~on probation, payment agreement or subject to, or in collections.~~
15 ~~Courts may charge a reasonable fee for production and copying of the~~
16 ~~abstract for the individual.~~

17 ~~(3) City attorneys and county prosecuting attorneys may provide the~~
18 ~~driving record to alcohol/drug assessment or treatment agencies~~
19 ~~approved by the department of social and health services to which the~~
20 ~~named individual has applied or been assigned for evaluation or~~
21 ~~treatment.~~

22 ~~(4)(a) The director, upon proper request, shall furnish a certified~~
23 ~~abstract covering the period of not more than the last three years to~~
24 ~~insurance companies.~~

25 ~~(b) The director may enter into a contractual agreement with an~~
26 ~~insurance company or its agent for the limited purpose of reviewing the~~
27 ~~driving records of existing policyholders for changes to the record~~
28 ~~during specified periods of time. The department shall establish a fee~~
29 ~~for this service, which must be deposited in the highway safety fund.~~
30 ~~The fee for this service must be set at a level that will not result in~~
31 ~~a net revenue loss to the state. Any information provided under this~~
32 ~~subsection must be treated in the same manner and subject to the same~~
33 ~~restrictions as certified abstracts.~~

34 ~~(5) Upon proper request, the director shall furnish a certified~~
35 ~~abstract covering a period of not more than the last five years to~~
36 ~~state approved alcohol/drug assessment or treatment agencies, except~~
37 ~~that the certified abstract shall also include records of alcohol~~

1 ~~related offenses as defined in RCW 46.01.260(2) covering a period of~~
2 ~~not more than the last ten years.~~

3 ~~(6) Upon proper request, a certified abstract of the full driving~~
4 ~~record maintained by the department shall be furnished to a city or~~
5 ~~county prosecuting attorney, to the individual named in the abstract,~~
6 ~~to an employer or prospective employer or an agent acting on behalf of~~
7 ~~an employer or prospective employer of the named individual, or to a~~
8 ~~volunteer organization for which the named individual has submitted an~~
9 ~~application for a position that could require the transportation of~~
10 ~~children under eighteen years of age, adults over sixty five years of~~
11 ~~age, or persons with physical or mental disabilities, or to an employee~~
12 ~~or agent of a transit authority checking prospective volunteer vanpool~~
13 ~~drivers for insurance and risk management needs.~~

14 ~~(7) The abstract, whenever possible, shall include:~~

15 ~~(a) An enumeration of motor vehicle accidents in which the person~~
16 ~~was driving;~~

17 ~~(b) The total number of vehicles involved;~~

18 ~~(c) Whether the vehicles were legally parked or moving;~~

19 ~~(d) Whether the vehicles were occupied at the time of the accident;~~

20 ~~(e) Whether the accident resulted in any fatality;~~

21 ~~(f) Any reported convictions, forfeitures of bail, or findings that~~
22 ~~an infraction was committed based upon a violation of any motor vehicle~~
23 ~~law;~~

24 ~~(g) The status of the person's driving privilege in this state; and~~

25 ~~(h) Any reports of failure to appear in response to a traffic~~
26 ~~citation or failure to respond to a notice of infraction served upon~~
27 ~~the named individual by an arresting officer.~~

28 ~~(8) Certified abstracts furnished to prosecutors and alcohol/drug~~
29 ~~assessment or treatment agencies shall also indicate whether a recorded~~
30 ~~violation is an alcohol-related offense as defined in RCW 46.01.260(2)~~
31 ~~that was originally charged as one of the alcohol-related offenses~~
32 ~~designated in RCW 46.01.260(2)(b)(i).~~

33 ~~(9) The abstract provided to the insurance company shall exclude~~
34 ~~any information, except that related to the commission of misdemeanors~~
35 ~~or felonies by the individual, pertaining to law enforcement officers~~
36 ~~or firefighters as defined in RCW 41.26.030, or any officer of the~~
37 ~~Washington state patrol, while driving official vehicles in the~~
38 ~~performance of occupational duty. The abstract provided to the~~

1 insurance company shall include convictions for RCW 46.61.5249 and
2 46.61.525 except that the abstract shall report them only as negligent
3 driving without reference to whether they are for first or second
4 degree negligent driving. The abstract provided to the insurance
5 company shall exclude any deferred prosecution under RCW 10.05.060,
6 except that if a person is removed from a deferred prosecution under
7 RCW 10.05.090, the abstract shall show the deferred prosecution as well
8 as the removal.

9 (10) The director shall collect for each abstract the sum of ten
10 dollars, fifty percent of which shall be deposited in the highway
11 safety fund and fifty percent of which must be deposited according to
12 RCW 46.68.038.

13 (11) Any insurance company or its agent receiving the certified
14 abstract shall use it exclusively for its own underwriting purposes and
15 shall not divulge any of the information contained in it to a third
16 party. No policy of insurance may be canceled, nonrenewed, denied, or
17 have the rate increased on the basis of such information unless the
18 policyholder was determined to be at fault. No insurance company or
19 its agent for underwriting purposes relating to the operation of
20 commercial motor vehicles may use any information contained in the
21 abstract relative to any person's operation of motor vehicles while not
22 engaged in such employment, nor may any insurance company or its agent
23 for underwriting purposes relating to the operation of noncommercial
24 motor vehicles use any information contained in the abstract relative
25 to any person's operation of commercial motor vehicles.

26 (12) Any employer or prospective employer or an agent acting on
27 behalf of an employer or prospective employer, or a volunteer
28 organization for which the named individual has submitted an
29 application for a position that could require the transportation of
30 children under eighteen years of age, adults over sixty five years of
31 age, or persons with physical or mental disabilities, receiving the
32 certified abstract shall use it exclusively for his or her own purpose:
33 (a) To determine whether the licensee should be permitted to operate a
34 commercial vehicle or school bus, or operate a vehicle for a volunteer
35 organization for purposes of transporting children under eighteen years
36 of age, adults over sixty five years of age, or persons with physical
37 or mental disabilities, upon the public highways of this state; or (b)
38 for employment purposes related to driving by an individual as a

1 ~~condition of that individual's employment or otherwise at the direction~~
2 ~~of the employer or organization, and shall not divulge any information~~
3 ~~contained in it to a third party.~~

4 ~~(13) Any employee or agent of a transit authority receiving a~~
5 ~~certified abstract for its vanpool program shall use it exclusively for~~
6 ~~determining whether the volunteer licensee meets those insurance and~~
7 ~~risk management requirements necessary to drive a vanpool vehicle. The~~
8 ~~transit authority may not divulge any information contained in the~~
9 ~~abstract to a third party.~~

10 ~~(14) Any alcohol/drug assessment or treatment agency approved by~~
11 ~~the department of social and health services receiving the certified~~
12 ~~abstract shall use it exclusively for the purpose of assisting its~~
13 ~~employees in making a determination as to what level of treatment, if~~
14 ~~any, is appropriate. The agency, or any of its employees, shall not~~
15 ~~divulge any information contained in the abstract to a third party.~~

16 ~~(15) Release of a certified abstract of the driving record of an~~
17 ~~employee, prospective employee, or prospective volunteer requires a~~
18 ~~statement signed by: (a) The employee, prospective employee, or~~
19 ~~prospective volunteer that authorizes the release of the record, and~~
20 ~~(b) the employer or volunteer organization attesting that the~~
21 ~~information is necessary: (i) To determine whether the licensee should~~
22 ~~be employed to operate a commercial vehicle or school bus, or operate~~
23 ~~a vehicle for a volunteer organization for purposes of transporting~~
24 ~~children under eighteen years of age, adults over sixty five years of~~
25 ~~age, or persons with physical or mental disabilities, upon the public~~
26 ~~highways of this state; or (ii) for employment purposes related to~~
27 ~~driving by an individual as a condition of that individual's employment~~
28 ~~or otherwise at the direction of the employer or organization. If the~~
29 ~~employer or prospective employer authorizes an agent to obtain this~~
30 ~~information on their behalf, this must be noted in the statement. This~~
31 ~~subsection does not apply to entities identified in subsection (1)(i)~~
32 ~~of this section.~~

33 ~~(16) Any negligent violation of this section is a gross~~
34 ~~misdemeanor.~~

35 ~~(17) Any intentional violation of this section is a class C~~
36 ~~felony.)) Upon a proper request, the department may furnish an abstract~~
37 ~~of a person's driving record as permitted under this section.~~

1 (1) Contents of abstract of driving record. An abstract of a
2 person's driving record, whenever possible, must include:

3 (a) An enumeration of motor vehicle accidents in which the person
4 was driving, including:

5 (i) The total number of vehicles involved;

6 (ii) Whether the vehicles were legally parked or moving;

7 (iii) Whether the vehicles were occupied at the time of the
8 accident; and

9 (iv) Whether the accident resulted in a fatality;

10 (b) Any reported convictions, forfeitures of bail, or findings that
11 an infraction was committed based upon a violation of any motor vehicle
12 law;

13 (c) The status of the person's driving privilege in this state; and

14 (d) Any reports of failure to appear in response to a traffic
15 citation or failure to respond to a notice of infraction served upon
16 the named individual by an arresting officer.

17 (2) Release of abstract of driving record. An abstract of a
18 person's driving record may be furnished to the following persons or
19 entities:

20 (a) **Named individuals.** (i) An abstract of the full driving record
21 maintained by the department may be furnished to the individual named
22 in the abstract.

23 (ii) Nothing in this section prevents a court from providing a copy
24 of the driver's abstract to the individual named in the abstract,
25 provided that the named individual has a pending or open infraction or
26 criminal case in that court. A pending case includes criminal cases
27 that have not reached a disposition by plea, stipulation, trial, or
28 amended charge. An open infraction or criminal case includes cases on
29 probation, payment agreement or subject to, or in collections. Courts
30 may charge a reasonable fee for the production and copying of the
31 abstract for the individual.

32 (b) **Employers or prospective employers.** (i) An abstract of the
33 full driving record maintained by the department may be furnished to an
34 employer or prospective employer or an agent acting on behalf of an
35 employer or prospective employer of the named individual for purposes
36 related to driving by the individual as a condition of employment or
37 otherwise at the direction of the employer.

1 (ii) Release of an abstract of the driving record of an employee or
2 prospective employee requires a statement signed by: (A) The employee
3 or prospective employee that authorizes the release of the record; and
4 (B) the employer attesting that the information is necessary for
5 employment purposes related to driving by the individual as a condition
6 of employment or otherwise at the direction of the employer. If the
7 employer or prospective employer authorizes an agent to obtain this
8 information on their behalf, this must be noted in the statement.

9 (iii) Upon request of the person named in the abstract provided
10 under this subsection, and upon that same person furnishing copies of
11 court records ruling that the person was not at fault in a motor
12 vehicle accident, the department must indicate on any abstract provided
13 under this subsection that the person was not at fault in the motor
14 vehicle accident.

15 (c) **Volunteer organizations.** (i) An abstract of the full driving
16 record maintained by the department may be furnished to a volunteer
17 organization or an agent for a volunteer organization for which the
18 named individual has submitted an application for a position that would
19 require driving by the individual at the direction of the volunteer
20 organization.

21 (ii) Release of an abstract of the driving record of a prospective
22 volunteer requires a statement signed by: (A) The prospective
23 volunteer that authorizes the release of the record; and (B) the
24 volunteer organization attesting that the information is necessary for
25 purposes related to driving by the individual at the direction of the
26 volunteer organization. If the volunteer organization authorizes an
27 agent to obtain this information on their behalf, this must be noted in
28 the statement.

29 (d) **Transit authorities.** An abstract of the full driving record
30 maintained by the department may be furnished to an employee or agent
31 of a transit authority checking prospective volunteer vanpool drivers
32 for insurance and risk management needs.

33 (e) **Insurance carriers.** (i) An abstract of the driving record
34 maintained by the department covering the period of not more than the
35 last three years may be furnished to an insurance company or its agent:

36 (A) That has motor vehicle or life insurance in effect covering the
37 named individual;

38 (B) To which the named individual has applied; or

1 (C) That has insurance in effect covering the employer or a
2 prospective employer of the named individual.

3 (ii) The abstract provided to the insurance company must:

4 (A) Not contain any information related to actions committed by law
5 enforcement officers or firefighters, as both terms are defined in RCW
6 41.26.030, or by Washington state patrol officers, while driving
7 official vehicles in the performance of their occupational duty. This
8 does not apply to any situation where the vehicle was used in the
9 commission of a misdemeanor or felony;

10 (B) Include convictions under RCW 46.61.5249 and 46.61.525, except
11 that the abstract must report the convictions only as negligent driving
12 without reference to whether they are for first or second degree
13 negligent driving; and

14 (C) Exclude any deferred prosecution under RCW 10.05.060, except
15 that if a person is removed from a deferred prosecution under RCW
16 10.05.090, the abstract must show the deferred prosecution as well as
17 the removal.

18 (iii) Any policy of insurance may not be canceled, nonrenewed,
19 denied, or have the rate increased on the basis of information
20 regarding an accident included in the abstract of a driving record,
21 unless the policyholder was determined to be at fault.

22 (iv) Any insurance company or its agent, for underwriting purposes
23 relating to the operation of commercial motor vehicles, may not use any
24 information contained in the abstract relative to any person's
25 operation of motor vehicles while not engaged in such employment. Any
26 insurance company or its agent, for underwriting purposes relating to
27 the operation of noncommercial motor vehicles, may not use any
28 information contained in the abstract relative to any person's
29 operation of commercial motor vehicles.

30 (v) The director may enter into a contractual agreement with an
31 insurance company or its agent for the limited purpose of reviewing the
32 driving records of existing policyholders for changes to the record
33 during specified periods of time. The department shall establish a fee
34 for this service, which must be deposited in the highway safety fund.
35 The fee for this service must be set at a level that will not result in
36 a net revenue loss to the state. Any information provided under this
37 subsection must be treated in the same manner and is subject to the
38 same restrictions as driving record abstracts.

1 (f) **Alcohol/drug assessment or treatment agencies.** An abstract of
2 the driving record maintained by the department covering the period of
3 not more than the last five years may be furnished to an alcohol/drug
4 assessment or treatment agency approved by the department of social and
5 health services to which the named individual has applied or been
6 assigned for evaluation or treatment, for purposes of assisting
7 employees in making a determination as to what level of treatment, if
8 any, is appropriate, except that the abstract must:

9 (i) Also include records of alcohol-related offenses, as defined in
10 RCW 46.01.260(2), covering a period of not more than the last ten
11 years; and

12 (ii) Indicate whether an alcohol-related offense was originally
13 charged as a violation of either RCW 46.61.502 or 46.61.504.

14 (g) **City attorneys and county prosecuting attorneys.** An abstract
15 of the full driving record maintained by the department, including
16 whether a recorded violation is an alcohol-related offense, as defined
17 in RCW 46.01.260(2), that was originally charged as a violation of
18 either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys
19 or county prosecuting attorneys. City attorneys and county prosecuting
20 attorneys may provide the driving record to alcohol/drug assessment or
21 treatment agencies approved by the department of social and health
22 services to which the named individual has applied or been assigned for
23 evaluation or treatment.

24 (h) **State colleges, universities, or agencies, or units of local**
25 **government.** An abstract of the full driving record maintained by the
26 department may be furnished to (i) state colleges, universities, or
27 agencies for employment and risk management purposes or (ii) units of
28 local government authorized to self-insure under RCW 48.62.031 for
29 employment and risk management purposes.

30 (i) **Superintendent of public instruction.** An abstract of the full
31 driving record maintained by the department may be furnished to the
32 superintendent of public instruction for review of public school bus
33 driver records. The superintendent or superintendent's designee may
34 discuss information on the driving record with an authorized
35 representative of the employing school district for employment and risk
36 management purposes.

37 (3) **Release to third parties prohibited.** Any person or entity
38 receiving an abstract of a person's driving record under subsection

1 (2)(b) through (i) of this section shall use the abstract exclusively
2 for his, her, or its own purposes or as otherwise expressly permitted
3 under this section, and shall not divulge any information contained in
4 the abstract to a third party.

5 (4) **Fee.** The director shall collect a ten-dollar fee for each
6 abstract of a person's driving record furnished by the department.
7 Fifty percent of the fee must be deposited in the highway safety fund,
8 and fifty percent of the fee must be deposited according to RCW
9 46.68.038.

10 (5) **Violation.** (a) Any negligent violation of this section is a
11 gross misdemeanor.

12 (b) Any intentional violation of this section is a class C felony.

13 NEW SECTION. **Sec. 2.** If specific funding for the purposes of this
14 act, referencing this act by bill or chapter number, is not provided by
15 June 30, 2010, in the omnibus transportation appropriations act, this
16 act is null and void.

17 NEW SECTION. **Sec. 3.** This act takes effect October 31, 2010."

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18 On page 1, line 2 of the title, after "accident;" strike the
19 remainder of the title and insert "amending RCW 46.52.130; creating a
20 new section; prescribing penalties; and providing an effective date."

EFFECT: Bill is redrafted in "plain language," adds an effective date, specifies that documentation provided must be court rulings, and is effective only for employer inquiries.

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